IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 11443 of 2005

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PANCHAL ALPESH KANUBHAI - Petitioner(s)

Versus

DISTRICT PRIMARY EDUCATION OFFICER AND PRIMARY TEACHER & 2 - Respondent(s)

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Appearance :

MS SNEHA A JOSHI for Petitioner No(s).: 1.

MS NAYNABEN K GADHVI for Respondent No(s).: 1.
NOTICE SERVED BY DS for Respondent No(s).: 2,3.
MR DIPEN DESAI, AGP for Respondent No(s).: 2,3.

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CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date : 09/08/2005

ORAL JUDGMENT

RULE. Ms.Naynaben Gadhvi, learned advocate waives service of notice of rule on behalf of respondent No.1 and learned AGP, Mr.Desai waives service of notice of

rule on behalf of respondents No.2 and 3. With the consent of the parties, this matter is taken up for final hearing today.

By filing this petition, the petitioner has prayed that appropriate writ or direction may be issued to consider the case of the petitioner for appointment on the post of Primary Teacher/Vidhya Sahayak in the category of Sangeet Visharad. The petitioner has applied in response to the advertisement for appointment to the said post and interviews were held on 19-1-2005. The case of the petitioner is that the petitioner has received intimation of such interview by UPC on 20-1-2005, i.e., one day later than the date on which the interviews were held. It is submitted on behalf of the petitioner that for no fault on the part of the petitioner, he was prevented from attending the said interview because the petitioner has received call letter one day late.

Earlier by order dated 25-7-2005, this Court has directed the respondent No.1 to take interview of the petitioner in view of the fact that the petitioner could not receive the interview call in time. Today, learned advocate Ms.Gadhvi appearing for the respondent No.1 has

submitted that the interview committee had taken interview of the petitioner on 1-8-2005 and he is selected and is kept at serial No.3 in the merit list. AT the request of learned advocate Ms.Gadhvi, said decision is taken on record.

It is required to be noted that the petitioner has applied for the post in question and now the interview committee, after considering the performance of the petitioner and after considering the certificate of the petitioner, ultimately, found that the petitioner is eligible for the post in question and accordingly the petitioner is selected as per the decision which is placed on record.

It is required to be noted that no candidate should suffer for no fault on his part. The department should have sent said call letter well in time so that the candidate should have received such letter in time and should have appeared in the interview. In future the department should take appropriate care to see that such letters may be sent by Registered Post A.D., so that it can be ascertained as to on which date it has reached its destination. In the present case, it is not even the case

of the department that the petitioner has received the letter prior to the date of interview. In any case, now when the petitioner is selected on merits and since it is not in dispute that the petitioner received call letter one day late, the respondent No.1 is directed to give appropriate appointment order to the petitioner in view of his selection and for that purpose if any supernumerary post is required to be created or if the post in question is required to be increased, it will be open for the respondent No.1 to request the State Government to grant such sanction and if such request comes from respondent No.1, the State may take appropriate decision on such request in accordance with law.

Be that as it may, since the petitioner is now selected the respondent No.1 should give appointment to the petitioner within a period of two weeks from today. Accordingly, this petition is allowed. Rule made absolute with no order as to costs. Direct service is permitted.

(P.B.MAJMUDAR, J.)

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